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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,788	02/26/2004	Michel Grandjean	040215-000000US	6142

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EXAMINER
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COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/788,788	<b>Applicant(s)</b> GRANDJEAN, MICHEL	
	<b>Examiner</b> Charles E. Cooley	<b>Art Unit</b> 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 19 is/are rejected.
- 7) ☒ Claim(s) 14-18 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **NON-FINAL OFFICE ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR § 1.83(a) since the drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or the features canceled from the claims. No new matter should be entered.

- a. the subject matter of claim 15 remains not shown. The lump breaker is shown along oriented parallel to the first axis but not along the inclined second axis, contrary to Applicant's assertion.

Correction is required.

### **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

#### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

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### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

### ***Specification***

2. The abstract is acceptable.
3. The amended title of the invention is acceptable.

### ***Claim Objections***

4. Claim 17, as amended, is objected to because in line 2, "a transmission tube" should be --the transmission tube-- to agree with claim 16, as amended.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**6. Claims 1-5, 7-12 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Stokes et al. (US 5,649,765).**

The patent to Stokes et al. discloses a mixer comprising a casing 40, 100 substantially having symmetry of revolution about a first axis, fixed orientation mixing members 26 with vanes driven in rotation relative to the casing and about a second axis that is inclined relative to the first axis (Fig. 1); the casing and the mixing members being driven in rotation (see rotation arrow 42) about the first axis at a determined speed; wherein the casing comprises a cap 174 driven in rotation about the second axis and supporting the mixing members; the two drive units 52, 54 and transmission tube arrangement with drive shafts 154 and 174 shown in Figs. 2-4; wherein the second axis is inclined relative to the first axis within the recited angular range; the mixing members have an extreme edge in the shape of an arc of a circle; the solid vaned mixing members forming open spaces between turns of the members 26; the mixing members capable of cutting material being processed; and a container 12 the base of which has a symmetry of revolution and the generatrix of which is the extreme edge of a mixing member as seen in the Figures; a lump breaker 32 which rotates with respect to the first axis (i.e., therefore being "mobile" with respect to the axis); the lump breaker 32 and the mixing members 26 being on either side of a plane containing the first axis as seen in Figure 1.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stokes et al. (US 5,649,765) in view of Joachim (US 4,437,766).**

Stokes et al. does not show the variable orientation of the mixing members. The patent to Joachim shows an analogous planetary type mixer arrangement having mixing members 12 and 13 located along an inclined second axis. The mixing members having variable orientation (i.e., pitch) relative to the second axis. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified the mixing members of Stokes et al. such that the mixing members having variable orientation as taught by Joachim for the purpose of conveying materials in the mixer at variable rates and to compress the materials (col. 2, line 67 - col. 3, line 7).

***Allowable Subject Matter***

9. Claims 14-18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. The following is an Examiner's statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach or fairly suggest the lump breaker being mobile parallel to the first axis (as it is disposed at an angle with respect to the first axis); the lump breaker arranged along the second axis, the lump breaker connected to a transmission tube; a telescopic arm connecting the lump breaker to the transmission tube, the lump breaker is driven in rotation by a motor in the telescopic arm; or the recited cradle arrangement.

### ***Response to Amendment***

11. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection. Stokes et al. is deemed to disclose the broadly recited mobile lump breaker of the amended claims that is on the opposite side of a plane containing the first axis from the mixing members.

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (571) 272-1139. The examiner can normally be reached on Mon-Fri. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

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13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Charles" followed by a stylized flourish.

Charles E. Cooley  
Primary Examiner  
Art Unit 1723

12 June 2006